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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 STEVEN KINFORD,

11 Plaintiff,

12 vs.

13 JAMES PINCOCK et al.,

14 Defendants.

15) 3:15-cv-00512-RCJ-WGC
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Plaintiff sued Defendants in state court alleging Eighth Amendment violations and
negligence under state law based on allegedly defective facial reconstruction surgery.
Defendants removed. The Court granted Defendants' motion to dismiss at the recommendation
of the Magistrate Judge. The Magistrate Judge had recommended dismissal of the action with
prejudice but also recommended keeping the case open to give Plaintiff an opportunity to amend
to make allegations of unlawful retaliation against two new Defendants. The Court nominally
adopted the recommendation in full but in substance rejected it in part, ordering the Clerk to
close the case.

1 After filing a notice of appeal, Plaintiff asked the Court to clarify the procedural posture
2 of the case. The Court interpreted the motion as a motion for relief from judgment under Rule
3 60(a). The Court had lost jurisdiction to the Court of Appeals, however, and could only make an
4 indicative ruling under Rule 62.1. The Court indicated that if the Court of Appeals were to
5 remand for the purpose of ruling on the motion, the Court would rule that it made an oversight as
6 contemplated under Rule 60(a) when it dismissed without leave to amend to make allegations of
7 unlawful retaliation against the two proposed defendants. The Court of Appeals so remanded,
8 and the Court granted the motion for relief from judgment and the motion for leave to file the
9 Third Amended Complaint ("TAC"), ordering the Magistrate Judge to prepare a report and
10 recommendation ("R&R") under 28 U.S.C. § 1915A. The Magistrate Judge recommended
11 dismissal of the additional claims with prejudice, and the Court adopted the R&R. Plaintiff has
12 asked the Court to reconsider. The Court denies the motion.

15 **CONCLUSION**

16 **IT IS HEREBY ORDERED** that the Motion to Reconsider (ECF No. 75) is DENIED.

17 **IT IS SO ORDERED.**

18 *1242 July*
19 Dated this 29th day of ~~June~~ 2017.

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ROBERT C. JONES
United States District Judge

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